

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL MEMORANDUM**

SB 2563 – HB 3039

March 5, 2012

CORRECTED SUMMARY OF AMENDMENTS (013802, 012709): Changes the definition of “limited service restaurant” (LSR), effectively making any restaurant a LSR if it seats at least 40 patrons, serves beer or alcohol, and provides a prepared menu for patrons. Changes the definition of “restaurant” by decreasing the capacity minimum from 75 to 40 patrons. A license for a restaurant, which falls within the range of 40-74 seats, will cost \$650 annually. Amendment (012709) clarifies which table in Tenn. Code Ann. §57-4-301(R) is to be deleted. Amendment (013802) authorizes any LSR to have food delivered from an off-premises location in order to fulfill the prepared food requirement. Declares that an LSR is not required to maintain kitchen facilities in order to qualify for a LSR license.

CORRECTED FISCAL IMPACT OF ORIGINAL BILL:

Increase State Revenue – Net Impact - \$13,800/FY12-13/ABC Fund

Decrease State Revenue – Net Impact – \$1,300/FY13-14 and Subsequent Years/ABC Fund

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

On March 2, 2012, a fiscal memorandum was issued estimating a fiscal impact as follows:

Unchanged from the corrected fiscal note.

Amendment draft code 012857 was referenced in the summary and assumptions of the fiscal memo. This draft code does not pertain to this bill. The correct drafting code is 012709. The fiscal impact remains unchanged.

Unchanged from the corrected fiscal note.

Corrected assumptions applied to amendments:

- The corrected fiscal note for the original bill assumed the table, as referenced in amendment 012709, was to be deleted. Therefore, amendment 012709 will not change the corrected fiscal impact estimated for the original bill.

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- Depending on the percentage of gross sales attributable to prepared foods, LSRs either pay \$2,000, \$3,000, or \$4,000 annually for an LSR permit.
- Currently, the Alcoholic Beverage Commission (ABC) does not fine LSRs that generate over 50 percent of revenue from the sale of prepared foods. This bill as amended will allow LSRs to generate over 50 percent of gross sales from the sale of prepared food, without a fine or fee. Effectively, this does not change the current process.
- According to ABC, there are currently 250 establishments that have been issued an LSR license.
- It is estimated that 10 percent (or 25) of current LSRs continually generate over 50 percent of gross revenue from the sale of prepared foods.
- These 25 LSRs currently pay the \$2,000 annual LSR license fee resulting in recurring state revenue of \$50,000 (25 x \$2,000). This proposed legislation would effectively place these LSRs under the category of a restaurant as well as an LSR.
- It is assumed these LSRs would purchase a restaurant license instead of a LSR license because of a lower licensing fee. The cost of a license for a restaurant seating 40-74 patrons is \$650 which would result in recurring state revenue of \$16,250 (25 x \$650).
- The net decrease in state revenue is estimated to be \$33,750 (\$50,000 - \$16,250).
- It is estimated that small restaurants (seating 40-74 people) that currently wish to sell alcohol will be incentivized to do so because of the decrease in the annual permit cost of \$1,350 (\$2,000 current fee - \$650 proposed fee).
- It is estimated that 50 additional restaurants will purchase a \$650 restaurant permit from ABC in order to sell alcohol on premises. These 50 additional restaurants will also have a one-time non-refundable application fee of \$300 resulting in an increase in revenue of \$47,500 [(\$300 + \$650) x 50] in FY12-13.
- This recurring increase in revenue is estimated to be \$32,500 (\$650 x 50) in FY13-14 and subsequent years.
- The net increase in state revenue for FY12-13 is estimated to be \$13,750 (\$47,500 - \$33,750).
- The net recurring decrease in state revenue for FY13-14 and subsequent years is estimated to be \$1,250 (\$33,750 - \$32,500).
- This will result in no fiscal impact to local government.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/jdb